

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA
WINSTON-SALEM DIVISION**

FEDERAL TRADE COMMISSION, et
al.,

Plaintiffs,

v.

SYNGENTA CROP PROTECTION., et
al.

Defendants.

CASE NO. 1:22-CV-828-TDS-JEP

**DEFENDANTS' JOINT MOTION FOR EXTENSION OF
TIME TO RESPOND TO PLAINTIFFS' COMPLAINT
AND REQUEST FOR EXPEDITED BRIEFING**

Defendants Syngenta Crop Protection AG, Syngenta Corporation and Syngenta Crop Protection, LLC (together, “Syngenta”) and Corteva, Inc. (“Corteva”) (collectively, “Defendants”), by and through their undersigned attorneys and pursuant to Fed. R. Civ. P. 6(b) and Local Rule 6.1(a), respectfully move for an extension of time within which to answer, move or otherwise respond to Plaintiffs’ Complaint to a date to be set by this Court after the disposition of Defendants’ forthcoming motion to transfer certain cases currently filed in the Southern District of Indiana, and the filing of an amended consolidated class action complaint.¹

¹ In moving for an extension of time, Defendants expressly reserve, and do not waive, all rights and defenses, including with respect to personal jurisdiction.

ARGUMENT

1. This case is one of at least 11 related cases involving Corteva and Syngenta's crop protection product loyalty programs filed in two different federal courts before four different district court judges and six different magistrates. The various complaints assert claims under Sections 1 and 2 of the Sherman Act, Section 3 of the Clayton Act, Section 5 of the FTC Act, and the state antitrust and consumer protection laws of more than 30 states, the District of Columbia and the Territory of Puerto Rico.

2. Defendants bring the present motion to facilitate the coordination and/or consolidation of these cases and to secure the just and efficient determination of each of the pending cases. In all cases, plaintiffs allege the same factual basis for their claims—Defendants' participation in crop protection product loyalty programs.

3. As set out in the table below, this case was filed by the Federal Trade Commission (the "FTC") and various states (together with the FTC, the "Government Plaintiffs") in this District on September 29, 2022. Since then, private plaintiffs have filed 10 cases asserting the same or similar claims in both this District and the Southern District of Indiana.

Case	Response Due	District	Plaintiffs	Defendants
<i>FTC v. Syngenta Crop Protection AG</i> , No. 22-cv-828-TDS-JEP	12/12/2022	M.D.N.C.	Federal Trade Commission, State of California, State of Colorado, State of Illinois, State of Indiana, State of Iowa, State of Minnesota, State of Nebraska, State of Oregon, State of Texas, State of Wisconsin	Syngenta Crop Protection AG; Syngenta Corporation; Syngenta Crop Protection, LLC; Corteva, Inc.
<i>Anderson v. Syngenta Crop Protection AG</i> , No. 22-cv-858-TDS-JEP	12/16/2022	M.D.N.C.	Charles Anderson, and all others similarly situated	Syngenta Crop Protection AG; Syngenta Corporation; Syngenta Crop Protection, LLC; Corteva, Inc.
<i>Croscut v. Syngenta Crop Protection AG</i> , No. 22-cv-899-TDS-JEP	12/16/2022	M.D.N.C.	Frederick C. Croscut, and all others similarly situated	Syngenta Crop Protection AG; Syngenta Corporation; Syngenta Crop Protection, LLC; Corteva, Inc.
<i>Jenkins v. Corteva, Inc.</i> , No. 22-cv-1976-RLY-DLP	12/16/2022	S.D. Ind.	Justin W. Jenkins, and all others similarly situated	Syngenta Crop Protection AG; Syngenta Corporation; Syngenta Crop Protection, LLC; Corteva, Inc.; CHS, Inc.; Nutrien Ag Solutions, Inc.

Case	Response Due	District	Plaintiffs	Defendants
<i>Bradley Day Farms v. Syngenta Crop Protection AG</i> , No. 22-cv-02223-JMS-MG	Not yet served	S.D. Ind.	Bradley Day Farms, and all others similarly situated	Syngenta Crop Protection AG; Syngenta Corporation; Syngenta Crop Protection, LLC; Corteva, Inc.; BASF, SE; BASF Corporation; BASF Agricultural Products Group; Nutrien Ag Solutions, Inc.; Helena Agri-Enterprises, Inc.
<i>Shelby Farms LLC et al. v. Syngenta Crop Protection AG</i> , No. 22-cv-02226-JPH-MJD	Not yet served	S.D. Ind.	Shelby Farms, LLC; Hanna Farms, LLC; G&P Farms Partnership, and all others similarly situated	Syngenta Crop Protection AG; Syngenta Corporation; Syngenta Crop Protection, LLC; Corteva, Inc.; BASF, SE; BASF Corporation; BASF Agricultural Products Group; Nutrien Ag Solutions, Inc.; Helena Agri-Enterprises, Inc.
<i>M and M Farms Partnership et al. v. Syngenta Crop Protection AG</i> , No. 22-cv-02227-JMS-TAB	Not yet served	S.D. Ind.	M and M Farms Partnership; Brick Farms, Inc., and all others similarly situated	Syngenta Crop Protection AG; Syngenta Corporation; Syngenta Crop Protection, LLC; Corteva, Inc.; BASF, SE; BASF Corporation; BASF Agricultural

Case	Response Due	District	Plaintiffs	Defendants
				Products Group; Nutrien Ag Solutions, Inc.; Helena Agri- Enterprises, Inc.
<i>HYS Farms LLC v. Syngenta Crop Protection AG</i> , No. 22-cv-02229-JMS-MPB	Not yet served	S.D. Ind.	HYS Farms, LLC, and all others similarly situated	Syngenta Crop Protection AG; Syngenta Corporation; Syngenta Crop Protection, LLC; Corteva, Inc.; BASF, SE; BASF Corporation; BASF Agricultural Products Group; Nutrien Ag Solutions, Inc.; Helena Agri-Enterprises, Inc.
<i>Danny Day, Jr. Farms et al. v. Syngenta Crop Protection AG</i> , 22-cv-02225-JMS-MJD	Not yet served	S.D. Ind.	Danny Day Jr. Farms; Danny Day Jr. and Son Farm Partnership, and all others similarly situated	Syngenta Crop Protection AG; Syngenta Corporation; Syngenta Crop Protection, LLC; Corteva, Inc.; BASF, SE; BASF Corporation; BASF Agricultural Products Group; Nutrien Ag Solutions, Inc.; Helena Agri-Enterprises, Inc.

Case	Response Due	District	Plaintiffs	Defendants
<i>Chuck Day Farms Partnership v. Syngenta Crop Protection AG</i> , No. 22-cv-02222-JMS-MG	Not yet served	S.D. Ind.	Chuck Day Farms Partnership, and all others similarly situated	Syngenta Crop Protection AG; Syngenta Corporation; Syngenta Crop Protection, LLC; Corteva, Inc.; BASF, SE; BASF Corporation; BASF Agricultural Products Group; Nutrien Ag Solutions, Inc.; Helena Agri-Enterprises, Inc.
<i>Scott Day Farms v. Syngenta Crop Protection AG</i> , No. 22-cv-02230-JMS-TAB	Not yet served	S.D. Ind.	Scott Day Farms, and all others similarly situated	Syngenta Crop Protection AG; Syngenta Corporation; Syngenta Crop Protection, LLC; Corteva, Inc.; BASF, SE; BASF Corporation; BASF Agricultural Products Group; Nutrien Ag Solutions, Inc.; Helena Agri-Enterprises, Inc.

4. Given the similar questions of law and fact raised in these cases, all of which are related and many of which are nearly identical, Defendants seek to have the cases coordinated and/or consolidated before the same court and judge, so as to ensure

efficient, non-duplicative case management and to minimize the burden and expense of litigation for both the parties and the courts.

5. To that end, Defendants are filing a motion to transfer *Jenkins v. Corteva, Inc.*, No. 22-cv-1976, to this District, where this action was filed by the Government Plaintiffs, two lawsuits have been filed by private plaintiffs, one of the manufacturer defendants is headquartered, and where all Defendants in the *Jenkins* action consent to proceed. Defendants intend to file similar motions to transfer, if necessary, in each of the other cases pending in the Southern District of Indiana, which are all nearly identical and were filed by the same cooperating attorneys.

6. By this motion, Defendants respectfully request that this Court extend their time within which to answer, move or otherwise respond up to and including a date after disposition of Defendants' motion to transfer.

7. Good cause exists for the requested relief because it will (i) allow time for the pending cases to be coordinated and/or consolidated; (ii) avoid the submission of duplicative or uncoordinated answers and/or motions to dismiss; (iii) conserve party and judicial resources; and (iv) prevent any party from being advantaged or disadvantaged while the parties (and the courts) develop a plan to manage the cases.

8. This motion is made in good faith and not for the purpose of delay. No party to this proceeding will be prejudiced. On the contrary, all parties and the courts will benefit from coordination of the pending cases, which the relief requested by the present motion will facilitate.

9. Defendants have filed similar motions for an extension of time in which to answer, move or otherwise respond in *Anderson v. Syngenta Crop Protection AG*, No. 22-cv-858-TDS-JEP, and *Croscut v. Syngenta Crop Protection AG*, No. 22-cv-899-TDS-JEP, which the Court recently consolidated and concern the same factual issues as alleged in this action. Plaintiffs in those actions have consented to Defendants' motions for an extension of time. To promote the efficient resolution of this action and to reduce the burden on the parties, this action should proceed on a similar schedule as the related actions.

10. The Court has not previously granted a motion for an extension to answer, move or otherwise respond to the complaint in this case. Defendants have waived service of process, and an answer, motion or other response is currently due on December 12, 2022. In view of the seven cases filed in the Southern District of Indiana last week, the current deadline to answer, move or otherwise respond to the Complaint will be insufficient to permit resolution of Defendants' transfer motion and to achieve the benefits of coordination and/or consolidation.

11. In sum, Defendants respectfully request that this Court grant an extension of time within which to answer, move or otherwise respond up to and including a date after disposition of Defendants' motion to transfer.

12. Pursuant to Local Rule 6.1(a), the undersigned counsel for Defendants have consulted with counsel for Plaintiffs.

13. Defendants request that this Court set an expedited briefing schedule for this motion, given that Defendants' answer, motion or other response is currently due

on December 12, 2023 and the questions presented by Defendants' motion for an extension of time are straightforward.

14. A proposed Order is submitted herewith.

WHEREFORE, Defendants respectfully request that this Court enter an Order granting Defendants an extension of time to answer, move or otherwise respond to Plaintiffs' Complaint, until and including a date to be set by this Court after disposition of Defendants' motion to transfer related cases to this court, and such other or further relief as the Court deems proper and just.

Respectfully submitted this 21st day of November, 2022.

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